

### **REMARKS**

This responds to the Office Action dated November 21, 2007.

Claim 10 is amended, no claims are canceled or added; as a result, claims 5 and 10-14 remain pending in this application.

#### **§102 Rejection of the Claims**

Claims 5 and 10-14 were rejected under 35 U.S.C. § 102(e) for anticipation by Kossovsky et al. (U.S. Patent Application Publication No. 2002/0004775; hereinafter “Kossovsky”). Applicant respectfully traverses the rejection of claims 5 and 10-14 because Kossovsky is not prior art under 35 U.S.C. § 102(e). Applicant understands that Kossovsky claims priority to Provisional Patent Application Serial No. 60/124,847 filed March 17, 1999, but there is no assertion in the Office Action that the Provisional Patent Application provides the asserted teachings.

In the event that such assertions are made in a subsequent action, Applicant is willing to withdraw claims 5 and 11-14 in the present application to move prosecution forward. This would leave amended claim 10 which Applicant respectfully submits is patentable because Kossovsky fails to teach or suggest “automatically adjusting the terms of transfer in the event no sufficient bids are gathered within a predetermined period of time” as set forth in amended claim 10.

Thus, Applicant respectfully requests withdrawal of the 35 U.S.C. § 102(e) rejection of claims 5 and 10-14 because Kossovsky has not been established as prior art. In the alternative, Applicant respectfully requests that the Examiner consider the amendment to claim 10.

#### **Reservation of Rights**

In the interest of clarity and brevity, Applicant may not have equally addressed every assertion made in the Office Action, however, this does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or

otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612) 373-6902 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date 20 March 08

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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 20 day of March 2008.

John D. Bush - Marshall

Name

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Signature